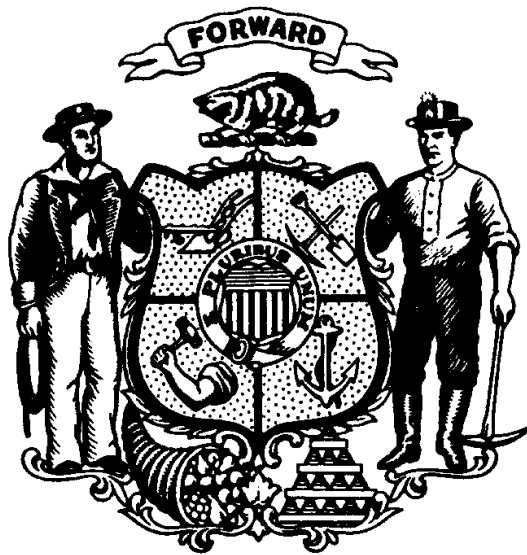


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 504**



Publication Date: December 14, 1997  
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## EMERGENCY RULES NOW IN EFFECT

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*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

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### EMERGENCY RULES NOW IN EFFECT

#### Department of Commerce

**(Financial Resources for Businesses and Communities, Chs. Comm 105 to 128)**

Rule adopted amending **s. Comm 108.21 (1) (f)**, relating to the emergency grants under the Community Development Block Grant (CDBG) program.

#### Finding of Emergency

The Department of Commerce (Commerce) finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

A closer examination of the revised rules to take effect on November 1, 1997 will not allow Commerce to award emergency grants to local governments experiencing a natural disaster or catastrophic event using other state or federal grant funds as match. Those rules do not specify a source for the match funds, and up to the present time, many of the emergency grants did use state and/or federal grants as match. The most recent example of an emergency is the tornado that devastated the Village of Oakfield. In that case, the Federal Emergency Management Administration (FEMA) and state Division of Emergency Management (DEM) funds were used as match for a CDBG emergency grant.

The floods that occurred in June 1997 in the Milwaukee area may generate some emergency requests for repair and remediation activities. Under the rules that take effect November 1, 1997, Commerce would not be able to use the FEMA and DEM grants as match for these emergency projects.

The nature of the emergency program makes it impossible to anticipate future applications for obvious reasons. Commerce must have a program in place and ready to respond on short notice when an emergency occurs. The emergency rule will allow the use of other grant funds as match. It is very important that Commerce be ready

to respond in a timely manner to the needs of the citizens of this state in times of emergency.

**Publication Date:** October 30, 1997

**Effective Date:** November 1, 1997

**Expiration Date:** April 1, 1998

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### EMERGENCY RULES NOW IN EFFECT (3)

#### Department of Corrections

1. Rules adopted creating **ch. DOC 304**, relating to inmate secure work groups.

#### Finding of Emergency

The Department of Corrections finds an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Effective June 1, 1997, appropriations will be made available to the Department of Corrections for the establishment of secure work groups. Section 303.063 (2), Stats. requires that if the Department establishes a secure work program, the Department shall, before implementing the program, promulgate rules specifying the procedures and regulations relating to the program. The Department has just begun the permanent rule process for establishing the administrative rules for the secure work program. It typically takes nine months for a permanent administrative rule to be promulgated from the time the permanent rule making process begins.

The Department needs to adopt administrative rules regarding the organization and operation of the secure work group program in order to have rules in place which will comply with Sec. 303.063 (2), Stats. The rules will provide for the protection of the public, the correctional officers and the inmates by providing the requirements for participation in the program as well as providing for safety and security concerns.

An emergency currently exists as the prison population is idle and needs secure work groups to provide inmates work opportunities, to prepare inmates for work opportunities upon release to the community, and to reintegrate inmates into the community.

**Publication Date:** May 30, 1997

**Effective Date:** May 30, 1997

**Expiration Date:** October 28, 1997

**Hearing Dates:** August 25, 28 & 29, 1997

**Extension Through:** February 24, 1998

2. Rules adopted creating **ch. DOC 332**, relating to registration and community notification of sex offenders.

#### Finding of Emergency

The Department of Corrections finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety. A statement of the facts constituting the emergency is: The legislature has directed the department to implement programs for sex offender registration and community notification by June 1, 1997. Emergency rules are necessary to implement the June 1, 1997, timeline mandated by the legislature, inform sex offenders of registration procedures, and inform law enforcement, victims and the public of the right to access information under the

procedures designed by the department. Emergency rules are necessary to implement the June 1, 1997, timeline established by the legislature while permanent rules are developed and promulgated.

**Publication Date:** June 1, 1997  
**Effective Date:** June 1, 1997  
**Expiration Date:** October 30, 1997  
**Hearing Dates:** August 27, 28 & 29, 1997  
**Extension Through:** February 26, 1998

3. Rules adopted revising **ch. DOC 310**, relating to inmates complaint review system.

### Finding of Emergency

The Department of Corrections finds an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

There is a Corrections Complaint Examiner with two investigator positions and a program assistant position at the Department of Justice. The number and placement of these Corrections Complaint Examiner positions have been in effect for years. At the present time there is a substantial backlog of approximately 3,000 inmate complaints which need to be reviewed by the Corrections Complaint Examiner. The Department of Justice's position is that it will no longer do the Corrections Complaint Examiner function.

The Department must change its administrative rule to reflect the placement of the Corrections Complaint Examiner function from the Department of Justice to the Department of Corrections. The Department must also change its administrative rule regarding inmate complaints to make the system more efficient as a substantial backlog now exists, and there will be no new positions at the Department of Corrections to do the work of the Corrections Complaint Examiner.

The Department's purpose in the inmate complaint review system is to afford inmates a process by which grievances may be expeditiously raised, investigated, and decided. An efficient inmate complaint review system is required for the morale of the inmates and the orderly functioning of the institutions. An emergency exists due to the current backlog and the proposed moving of the function which will require the Department of Corrections to do the work of the Corrections Complaint Examiners with no new positions.

**Publication Date:** August 4, 1997  
**Effective Date:** August 4, 1997  
**Expiration Date:** January 2, 1998  
**Hearing Dates:** October 15, 16 & 17, 1997  
**Extension Through:** March 2, 1998

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## EMERGENCY RULES NOW IN EFFECT

### *Dentistry Examining Board*

A rule was adopted revising **s. DE 2.04 (1) (e)**, relating to examination requirements for applicants licensed as dentists in other states.

### Finding of Emergency

These rules are promulgated under s. 227.24 (1) (a), Stats. The Governor vetoed a provision in the budget bill which would have permitted dentists licensed in other states to obtain a license in Wisconsin, despite their not having passed a clinical licensing examination with a periodontal part. In doing so, the Governor requested the board adopt an emergency rule to permit these dentists to obtain licenses in Wisconsin under other reasonable and appropriate methods. The concern for the public health, safety and welfare is that this state's citizens are currently being deprived of

necessary dental services from qualified dentists who, themselves, are experiencing substantial and perhaps unnecessary hardship in becoming licensed in Wisconsin. These rules are put into effect prior to the time they would be effective under routine rulemaking procedures to assure that the public is not deprived of necessary dental services from qualified dental professionals and that adequate safeguards for protecting the health and safety of dental patients are part of the licensing process.

**Publication Date:** October 18, 1997  
**Effective Date:** October 18, 1997  
**Expiration Date:** March 18, 1997  
**Hearing Date:** January 7, 1998  
 [See Notice this Register]

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## EMERGENCY RULES NOW IN EFFECT

### *Department of Employment Relations*

Rules were adopted revising **ch. ER 18**, relating to sick leave credits, the adjustment of sick leave balances for state employees and catastrophic leave.

### Finding of Emergency

The Department of Employment Relations finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

It is the state's personnel policy to maintain a uniform system of fringe benefits for state employees in terms of retirement, insurance and leave provisions. This policy is followed in order to facilitate movement of employees between agencies and different types of positions, to minimize the number of benefit systems that must be administered by personnel and payroll staff and to ensure employee equity in benefits. Two of the benefits available to most state employees are sick leave and catastrophic leave. Catastrophic leave programs allow the donation of certain types of unused leave to employees who are on an unpaid leave of absence because they have exhausted their available leave due to a catastrophic need.

The sick leave accrual rate for represented state employees is governed by the applicable collective bargaining agreement. Likewise, provisions regarding catastrophic leave are contained in the agreements. For nonrepresented state employees, the sick leave accrual rate and catastrophic leave are governed by administrative rules promulgated by the secretary of the Department of Employment Relations. Under current administrative rules and all of the 1995-97 collective bargaining agreements, employees earn sick leave at the identical rate of 4 hours per pay period for full-time employees. Under current agreements, catastrophic leave may be exchanged between employees only within bargaining units in the same employing unit, except that the appointing authority may allow exchange between employing units within the same agency. The catastrophic leave program in the current administrative rules for state employees allows exchange of leave only between nonrepresented employees within the same employing unit, except that the appointing authority may allow exchange within an agency.

The Department of Employment Relations recently negotiated new contracts with 11 bargaining units representing the majority of state employees. These contracts will increase the sick leave accrual rate for the covered represented employees and expand the exchange of catastrophic leave for represented employees. The sick leave accrual rate will increase from 4 to 5 hours per pay period for full-time employees, starting on the effective date of the contracts. (Sick leave balances for individual employees also will be adjusted on the effective dates of the contracts to apply the higher accrual rate to hours worked between July 6, 1997 and the effective date of the contracts.) The contracts also expand the catastrophic leave programs to allow exchange of leave between members of different bargaining units, between different employing units within the same

agency and between represented and nonrepresented employees. Leave may also be exchanged across agency lines with the approval of each agency.

Without a change in the administrative rules, nonrepresented employees will not receive the increased sick leave, nor will they have the same broadened opportunities to donate and receive catastrophic leave as represented employees.

If the sick leave accrual rate for nonrepresented employees is not increased by this emergency rule, nonrepresented employees will accrue sick leave at a lower rate than those covered by collective bargaining agreements which provide a higher rate. This inconsistency will have the following negative impacts on state employees and agencies: (1) it will create inequitable treatment and morale problems between state employees; (2) it will discourage transfers and promotions by employees from represented to nonrepresented positions; and (3) it will require administration of two different sick leave accrual rates.

If the exchange of catastrophic leave is not broadened, nonrepresented employees will not be able to donate leave to or receive leave from represented employees, or to and from nonrepresented or represented employees in other agencies. Thus, there will be less opportunities for employees who face a catastrophic need to receive donated leave from other employees.

In order to avoid these negative consequences, the Department finds that there is an emergency affecting the public peace, health, safety or welfare. The Department further finds that it is necessary to provide the higher sick leave accrual rate and expanded catastrophic leave to nonrepresented state employees as soon as possible through an emergency rule.

**Publication Date:** October 11, 1997  
**Effective Date:** October 12, 1997  
**Expiration Date:** March 12, 1998  
**Hearing Date:** December 15, 1997

## EMERGENCY RULES NOW IN EFFECT

### Insurance

A rule was adopted revising **s. Ins 18.07 (5) (b)**, relating to a decrease in premium rates for the Health Insurance Risk-Sharing Plan (HIRSP), effective January 1, 1998.

### Exemption From Finding of Emergency

Pursuant to s. 619.14 (5) (e), Stats., the Commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

### Analysis Prepared by the Office of the Commissioner of Insurance

#### January 1, 1998 Premium Adjustments

The Commissioner of Insurance, based on the recommendations of the Health Insurance Risk-Sharing Plan ("HIRSP") board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles. This rule adjusts the non-subsidized premium rates effective January 1, 1998. This change in rates will result in a

reduction of approximately 14.5%, and is mandated by plan financing changes in 1997 Wis. Act 27.

**Publication Date:** November 20, 1997  
**Effective Date:** January 1, 1998  
**Expiration Date:** May 31, 1998  
**Hearing Date:** December 30, 1997  
**[See Notice this Register]**

## EMERGENCY RULES NOW IN EFFECT (2)

### Natural Resources

#### (Fish, Game, etc., Chs. NR 1—)

1. Rule adopted creating **s. NR 27.07**, relating to notice of receipt of an application to incidentally take an endangered or threatened species.

### Exemption From Finding of Emergency

1995 Wis. Act 296 establishes authority in the department of natural resources to consider applications for and issue permits authorizing the incidental take of an endangered or threatened species while a person is engaged in an otherwise lawful activity. Section 29.415 (6m) (e), Stats., as created, requires the department to establish by administrative rule a list of organizations, including nonprofit conservation groups, that have a professional, scientific or academic interest in endangered species or in threatened species. That provision further provides that the department then give notification of proposed takings under that subsection of the statutes to those organizations and establish a procedure for receipt of public comment on the proposed taking.

The proposed rule lists a number of organizations the department is familiar with as being interested in endangered and threatened species; a notification procedure to be used to notify them, and others, of a proposed taking; and a public comment procedure to be used for consideration of public comments. The notification procedure is not limited to mail distribution, but is broad to allow other forms of notification, such as electronic mail.

**Publication Date:** November 18, 1996  
**Effective Date:** November 18, 1996  
**Expiration Date:** See section 12m, 1996 Wis. Act 296  
**Hearing Date:** January 14, 1997

2. Rules adopted revising **ch. NR 10**, relating to the 1997 migratory game bird season.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid–August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

The foregoing rules are approved and adopted by the Natural Resources Board on August 27, 1997.

**Publication Date:** September 12, 1997  
**Effective Date:** September 12, 1997  
**Expiration Date:** February 10, 1998  
**Hearing Date:** October 27, 1997

## EMERGENCY RULES NOW IN EFFECT

### *Public Defender*

A rule was adopted amending **s. PD 3.038 (2)**, relating to the calculation of indigency.

### Finding of Emergency

The State Public Defender Board finds that an emergency exists and that the following rule is necessary for the immediate preservation of the public peace, health, safety or welfare. The statement of facts constituting the emergency is as follows:

The following emergency rule establishes the criteria to be used when determining whether a participant in the Wisconsin works (W-2) program qualifies for public defender representation. W-2 replaces aid to families with dependent children (AFDC) and, pursuant to s. 49.141 (2) (b), Stats., goes into effect on September 1, 1997. Although the Office of the State Public Defender (SPD) has rules governing eligibility for public defender representation of AFDC participants, it does not have rules governing the eligibility of W-2 participants. Because W-2 goes into effect on September 1, 1997, and it will be several months before a permanent rule is in place, it is essential that the following rule be promulgated as an emergency rule.

**Publication Date:** September 15, 1997  
**Effective Date:** September 15, 1997  
**Expiration Date:** February 13, 1998  
**Hearing Date:** October 27, 1997

## EMERGENCY RULES NOW IN EFFECT

### *State Fair Park Board*

Rules adopted revising **chs. SFP 2 and 7**, relating to regulation of activities at the state fair park and revising bond schedule.

### Finding of Emergency

The Wisconsin State Fair Park Board finds that an emergency exists and that the adoption of rules is necessary for the immediate preservation of the public peace, health, safety and welfare of its citizens. The facts constituting this emergency are as follows:

During the annual State Fair, which is scheduled to begin on July 31, 1997, the Wisconsin State Fair Park is host to over 100,000 people per day and millions of dollars in merchandise and property. Initially, chapters SFP 1-7 were designed primarily to protect the property of the State Fair Park.

However, crime patterns at the State Fair Park have changed dramatically since those rules were adopted in 1967. With the increases in attendance and number of events in the intervening years, the number and severity of crimes against State Fair visitors, patrons, and property have necessarily increased. Also, a general rise in gang-related activity at Park events and during skating hours

at the Pettit National Ice Center has occurred over the last several years. Consequently, there is a greater need for Park Police Department arrest authority on the Park grounds in order to ensure prosecutorial cooperation by Milwaukee County.

Due to excessive workloads, the Milwaukee County District Attorney's Office and the Milwaukee County Circuit Court system are reluctant to process and charge offenders for relatively minor property-type acts prohibited under the current SFP rules. Area and suburban Milwaukee County Police Departments have alleviated similar problems by conforming their ordinances to the county and state codes, authorizing their Police Departments to make lawful standing arrests for acts which the county will prosecute.

The State Fair Park Board seeks the same level of cooperation from Milwaukee county by conforming its rules to the county code. Therefore, these proposed emergency rules prohibit such activities as loitering, spray painting, theft, battery, and resisting/obstructing an officer, as well as various weapons prohibitions. There is also included provisions to protect the police horses which are not only an integral part of Park enforcement but are also a major public relations tool. With these changes, the Park administration can ensure a safe and family-oriented environment at this year's State Fair and other Park events. It is necessary to use the emergency rule for processing the proposed rule change to Administrative Code, reference to the bail bond schedule, section 5, s. SFP 7.02. Section 5, s. SFP 7.02 is amended to repeal the old bond schedule and recreate the new bond schedule to align the bond code with the corresponding section in the Wisconsin Administrative Code to take effect before the 1997 Wisconsin State Fair begins on July 31, 1997.

The State Fair Park Board has begun the permanent rule process but the normal process will take between 6 and 9 months to complete. It is imperative to have these rules in place by the time of the 1997 State Fair.

These rules are therefore adopted as emergency rules to take effect upon publication in the official state newspaper and filing with the Secretary of State and the Revisor of Statutes as provided in s. 227.24 (1) (c), Stats.

**Publication Date:** August 1, 1997  
**Effective Date:** August 1, 1997  
**Expiration Date:** December 30, 1997

## EMERGENCY RULES NOW IN EFFECT

### *Department of Transportation*

Rules adopted revising **ch. Trans 300**, relating to school buses.

### Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety. The amendments are needed to assure that school bus operators can purchase school buses manufactured using the latest in construction technology and providing equal strength and safety. Currently, there are estimated to be 60 buses on order by operators. Without this emergency rule, these buses could not be used in Wisconsin when the school year begins in August 1997. Therefore, schools will start using alternative vehicles (production vans) because of the unavailability of the smaller school buses built to the safer school bus standards.

**Publication Date:** July 1, 1997  
**Effective Date:** July 1, 1997  
**Expiration Date:** November 29, 1997  
**Hearing Date:** August 26, 1997  
**Extension Through:** December 31, 1997



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**EMERGENCY RULES NOW IN EFFECT*****Veterans Affairs***

Rules were adopted revising **ch. VA 12**, relating to the personal loan program.

**Exemption From Finding of Emergency**

1997 Wis. Act 27, s. 9154 authorizes the department to promulgate rules for the administration of the personal loan program using the emergency rule procedures without providing evidence of the necessity of preservation of the public peace, health, safety or welfare.

**Analysis**

By repealing and recreating ch. VA 12, Wis. Adm. Code, the department establishes the underwriting and other criteria necessary for the administration of the personal loan program. The personal loan program was authorized by the legislature and governor through the amendment of s. 45.356, Stats., upon enactment of 1997 Wis. Act 27.

**Publication Date:** October 17, 1997

**Effective Date:** October 17, 1997

**Expiration Date:** March 17, 1998

**Hearing Date:** January 9, 1998

[See Notice this Register]

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### *Arts Board*

#### **Subject:**

Chs. AB 1 to 4 – Relating to the criteria and procedures under which the Arts Board shall administer the funds available for grants-in-aid to individual artists and arts organizations.

#### **Description of policy issues:**

##### *Description of the objectives of the rule:*

The objective of the rule is to establish the criteria and procedures the Arts Board will use to administer its grant programs.

#### **Description of existing policies relevant to the rule and of new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The rules will create the policies that govern the administration including, including the selection criteria and procedures for awarding the various grants to artists and art organizations made by the Arts Board. By statute the Arts Board is directed to adopt rules for the administration of these grant programs, and therefore there is no alternative other than the creation of rules for the operation of the Arts Board administered grants programs.

#### **Statutory authority for the rule:**

The statutory authority for the rule is ss. 44.53 (1) (e), 44.565 (4) and 44.62 (4), Stats.

#### **Estimate of the amount of time state employees will spend to develop the rule and other resources necessary to develop the rule:**

The Arts Board estimates that it will take approximately 30 hours of staff time on the rule, which includes discussing the rule with the Board and interested members of Wisconsin's arts community.

### *Commerce*

#### **Subject:**

Chs. Comm 18 and ILHR 50-64 and 69 – Relating to elevators and mechanical lifting devices.

#### **Description of policy issues:**

##### *Description of the objective of the rule:*

☐ Address risks relative to safety, health, and welfare that have been discovered since the last adoption of the American Society of Mechanical Engineers (ASME) A17.1, Safety Code for Elevators and Escalators.

☐ Reflect new construction practices, products, standards or materials.

☐ Clarify standards for fulfilling the objective of protecting public safety, health and welfare.

#### *Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

##### Existing policies:

The Department reviews plans and inspects elevators and mechanical lifting devices to ensure these units are designed and installed in accordance with the elevator safety rules. Currently, the Department is using the 1990 edition of the ASME A17.1. To ensure the citizens of Wisconsin are safe when using elevators and other mechanical lifting devices, the Department believes that its codes and adopted standards must be viable and current.

##### New policies:

Adopt the 1996 edition of the ASME A17.1 and other national standards relating to the safe operation of elevators and other mechanical lifting devices.

##### Analysis of policy alternatives:

The Department has identified the following policy alternatives:

● The Department could continue to administer and enforce the 1990 edition of ASME A17.1 standard; however, the Department believes adoption of current national standards increases safety and eliminates confusion in the construction and installation of elevators and mechanical lifting devices. The most current edition of ASME A17.1 is the 1996 edition.

● The Department could review and revise current administrative rules by adopting the 1996 edition of the ASME A17.1. This is the proposed alternative. The Department believes its rules and adopted standards should be consistent with national consensus standards.

##### **Statutory authority for the rule:**

The statutory authority for the rules is found under ss. 101.02, 101.12 and 101.17, Stats.

#### **Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

The Department estimates that it will take approximately 640 hours to develop this rule. This time includes forming and meeting with an advisory council, then drafting the rule and processing the rule through public hearings and legislative review. The Department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

### *Employe Trust Funds*

#### **Subject:**

S. ETF 50.40 – Provisions relating to the eligibility for Long-Term Disability Insurance (LTDI) benefits when a participant becomes disabled due to an injury or illness.

#### **Description of policy issues:**

##### *Objectives of the rule:*

To clarify that the Department and Board may find the employer's negative certification as being unreasonable and incorrect in cases where the employer's determination is clearly contrary to the evidence.

##### *Policy analysis:*

Under s. ETF 50.48 (4) (b) 1. and 3., Wis. Adm. Code, the Department shall deny the application for LTDI benefits if it determines the claimant does not meet the applicable requirements or if any of the following apply:

▼ The Department receives a statement from the employer certifying that the employee's participating employment has been terminated, or the employee is on a leave of absence and not expected to resume active service, for a reason other than the medically determinable impairment described in the claimant's application.

▼ The Department receives a certification from the employer denying that the claimant is totally and permanently disabled or with respect to a protective employee denies that the claimant is likely to be permanently disabled to the extent that he/she can no longer perform the duties required by the his/her position.

The rule will clarify that the Department and the Board may approve the LTDI benefit if the sole basis for denial was the employer's negative certification and it finds that the employer was unreasonable and incorrect in submitting the negative certification.

*Policy alternatives to the proposed rule:*

The amendment to the current rule is intended to provide consistent application of the Department's and Board's authority in administering the LTDI program and the regular disability programs. If the rule were not amended, the result would be less efficiency in the administration of the Long–Term Disability Insurance program established under ch. ETF 50, Wis. Adm. Code. Also, the inconsistencies between the LTDI and s. 40.63, Stats., disability programs would not be resolved.

**Statutory authority for rulemaking:**

Section 40.03 (6), Stats.

**Staff time required:**

The Department estimates that state employees will spend five hours to amend this rule.

## **Department of Financial Institutions**

### **Division of Savings Institutions**

**Subject:**

DFI–SL Code—Relating to authorizing savings and loan associations to make loans up to 100% of the secured real estate's full value and not require private mortgage insurance if the loan is to further the objectives of the federal Community Reinvestment Act of 1977.

**Description of policy issues:***Description of the objective of the rule:*

This rule would create another exception to the requirement of at least a 90% down payment or, if less than 90%, requiring private mortgage insurance. The exception will allow a savings and loan association to lend up to 100% of the secured real property's value if the loan is to meet the objectives of the federal Community Reinvestment Act with the prior written approval of the Division of Savings Institutions, Department of Financial Institutions.

*Description of existing policies relevant to the rule and of new policies proposed to be included, or an analysis of policy alternatives:*

The rule would help achieve the objective of making loans available to *all* groups in the area served by savings and loan associations, including minorities and people of low and moderate incomes, consistent with the safe and sound operation of the associations.

Currently state chartered savings banks (but not state chartered savings and loan associations) may make mortgage loans up to 100% of the secured real property's value with no private mortgage insurance if the loan is to meet the objectives of the federal Community Reinvestment Act of 1977. The rule now proposed extends this authority to Wisconsin's state chartered savings and loan associations.

**Statutory authority for the rule:**

Section 214.715 (1) (a), Stats.

**Estimate of the amount of time that state employees will spend to develop the rule and other resources necessary to develop the rule:**

About 40 hours of state employees' time will be required, from drafting the rule to complying with all rulemaking requirements to final adoption.

## **Health & Family Services**

**Subject:**

Ch. HFS 167 – Relating to the statewide poison control system.

**Description of policy issues:***Description of objective(s):*

To permit the two regional poison control centers in the state that, together, provide statewide 24–hour poison intervention and information services (by telephone) to employ staff to provide poison information services whose qualifications are not recognized by the current rules.

*Description of policies—relevant existing policies, proposed new policies and policy alternatives considered:*

This rule change has been requested jointly by the two regional poison control centers, the University of Wisconsin Hospital and Clinics in Madison and the Children's Hospital of Wisconsin in Milwaukee.

The current rules specify that only the following may work as on–line staff at a poison control center to interpret poison exposure data and provide poison intervention and management information: a registered nurse, a physician, a pharmacist, a pharmacy school graduate in residency training, a pharmacy school student who has completed the second professional practice year, a poison information specialist certified or eligible for certification by the American Association of Poison Control Centers, or someone who on May 1, 1994 had been working as an on–line staff member for at least 3 years and is receiving 16 hours of continuing education each year.

Hospitals today employ "skills mix" as a common method to provide cost–efficient services. This involves matching the appropriate skill level of staff with a task or duty. In this connection, approximately 70% of poison control center phone calls originate from homes and do not require intervention. Therefore, most calls can be handled by staff who can provide the necessary information about poisons without being expected to advise about intervention. Around the country, poison information providers with "appropriate health–oriented backgrounds," but without the intervention skills of the kinds of staff now specified in ch. HFS 167, are employed to staff poison information hotlines, with physicians, registered nurses, pharmacists or poison information specialists available to handle calls requiring advice about intervention.

Chapter HFS 167 will be amended to add poison information providers with "appropriate health–oriented backgrounds" as qualified on–line staff at the centers to provide information about poisons and routine follow–up. An important consideration in amending the rules to accomplish this will be to state clearly what will be accepted as "appropriate health–oriented background."

**Statutory authority:**

Sections 146.57 (4) and 227.11 (2), Stats.

**Estimates of staff time and other resources needed to develop the rules:**

Approximately 40 hours of staff time will be used to develop the draft rules.

## **Natural Resources**

**Subject:**

Chs. NR 161, 162, 163 – Relating to combining chs. NR 161, 162 and 163 into a single code.

Ch. NR 165 – Relating to various updates and improvements.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

Changes to these codes are necessary to:

- 1) Enable Clean Water Fund funding of nonpoint and stormwater projects;
- 2) Incorporate changes resulting from the 1997–99 Budget Bill; and,
- 3) Make general improvements.

In addition, the three codes would be consolidated into a single code. Unresolved policy issues relate to eligibility and priority ranking for nonpoint and stormwater projects. Interested groups would be those concerned with nonpoint and stormwater projects, and parties concerned with priority score issues.

This action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Past policy did not allow nonpoint and stormwater projects to be funded from the Clean Water Fund. Nonpoint sources are now recognized as a high priority for pollution abatement efforts, and should be a focus of our funding program. With the increasing number of stormwater and nonpoint projects and the limited funding available to the Nonpoint Source Pollution Abatement Program, the Clean Water Fund can provide needed funding for high priority projects.

**Statutory authority:**

Sections 281.58 and 281.59, Stats.; also, s. 227.11 (2), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 625 hours. Two public hearings will be held in August, 1998 at Madison and Stevens Point.

## Natural Resources

**Subject:**

Chs. NR 460 and 466 – Relating to establishing national standards for hazardous air pollutants (NESHAP) for the printing and publishing industry.

**Description of policy issues:**

*Description of the objective of the rule:*

Creation of ch. NR 460 Appendix KK and ch. NR 466, to establish national standards for hazardous air pollutants (NESHAP) for the printing and publishing industry. Use of the 30-day notice procedure for this rulemaking is proposed. Under this procedure, adoption is first requested from the Board. If approval is obtained, a public notice of the rule and opportunity to request a public hearing is issued. If no hearing is requested, the rule is published as final. If a request for a hearing is received, the normal rule development process would subsequently be followed.

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The U.S. EPA promulgated the NESHAP (National Standards for Hazardous Air Pollutants) for the printing and publishing industry effective on May 30, 1996. This action incorporates that standard into the Wisconsin Administrative Code. There are no policy issues to be resolved. This standard affects facilities statewide which operate rotogravure or flexographic printing presses and which are considered major sources for hazardous air pollutants.

This action does not represent a change from past policy.

**Statutory authority for rule:**

Sections 285.11 (1), 285.27 (2) and 227.11 (2) (a), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 332 hours. This represents the total anticipated time commitment if no hearings are requested under the 30-day notice procedure. Additional time will be required if hearings are requested. Hearing numbers, dates and locations will be determined if a request for a hearing is received in response to a public notice.

## Natural Resources

**Subject:**

Chs. NR 500 series (Solid Waste Management) – Relating to technical corrections, fee clarifications, and incorporation of statutory requirements.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

Incorporation of s. 289.34, Stats. (the “bad actor” law), the permit guarantee law enacted as part of the biennial budget (1997 Wis. Act 27), and s. 289.24 (1) (c), Stats., language in the chs. NR 500—series; fee clarifications for municipal solid waste combustors; and technical corrections. Operators of landfills and other solid waste facilities will be most directly impacted. Municipalities, industries, and citizen groups would be interested in these issues.

This action does not represent a change from past policy.

*Explain the facts that necessitate the proposed change:*

Three areas as follows:

1) Section 289.34, Stats., prohibits the Department from issuing certain approvals for landfills if the applicant is not in compliance with orders or approvals related to other solid or hazardous waste facilities. Section 289.24 (1) (c), Stats., requires that feasibility reports for landfills describe how the proposed landfill relates to any applicable county solid waste management plan approved under s. 289.10, Stats. The recently-enacted s. 299.05, Stats., (as created by 1997 Wis. Act 27) requires the Department to develop rules to refund certain fees paid for licenses (including those for solid waste facilities), if the Department fails to meet established deadlines for issuing such licenses. The solid waste code should be revised to incorporate language pertinent to these statutory requirements.

2) The current plan review and annual license fees for combustors are \$7,000. Although these fees are appropriate for larger facilities, the fees are high for smaller facilities, and should be adjusted.

3) Since the chs. NR 500—codes were revised in August, 1997, staff have identified a few wording and typographical errors which should be corrected.

**Statutory authority:**

Sections 289.24 (1) (c), 289.34 and 289.61, Stats., and section 299.05 (created by 1997 Wis. Act 27).

**Anticipated time commitment:**

The anticipated time commitment is 108 hours. Three public hearings will be held in March, 1998 at Waukesha, Eau Claire and Green Bay.

## Natural Resources

**Subject:**

NR Code – Relating to approval to create emergency administrative rules for the Safe Drinking Water Loan Program.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

DNR is authorized by Section 9127 (3x) of the 1997–99 Budget Bill to promulgate emergency rules to administer the Safe Drinking Water Loan Program. Rules will include eligibility requirements and priority scoring.

This action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

The Safe Drinking Water Loan Program is new to Wisconsin and currently there are no administrative rules.

**Statutory authority:**

S. 9137 (3x) of the 1997–99 budget bill, s. 281.61, Stats., and 42 USC 300f to 300j–26.

**Anticipated time commitment:**

The anticipated time commitment is approximately 466 hours. A public informational meeting will be held at Madison in March, 1998 on the permanent rule and a post-promulgation hearing on the emergency rule will be held in June.

## Natural Resources

**Subject:**

NR Code – Relating to approval to create administrative rules for the Safe Drinking Water Loan Program.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

DNR is authorized by the 1997–99 Budget Bill (ss. 281.61 and 281.62, Stats.) to promulgate rules to administer the Safe Drinking Water Loan Program. Rules will include eligibility requirements and priority scoring.

This action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

The Safe Drinking Water Loan Program is new to Wisconsin and currently there are no administrative rules. Emergency rule authorization is given by section 9137 (3x) of 1997 Wis. Act 27. Emergency rules will be written simultaneously with the regular rules.

**Statutory authority:**

S. 281.61, Stats., and 42 USC 300f to 300j–26.

**Anticipated time commitment:**

The anticipated time commitment is approximately 465 hours. Three public hearings will be held in March, 1998 at Stevens Point, Madison and Eau Claire.

**Natural Resources****Subject:**

NR Code – Relating to creating administrative rules for the Land Recycling Loan Program.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The 1997–99 biennial budget directed DNR to promulgate rules to administer a Land Recycling Loan Program (Brownfield Program). The rules will establish eligibility and priority criteria, application requirements, funding policies and program management requirements. The Land Recycling Loan Program will provide below–market interest rate loans to cities, villages, towns and counties.

This action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

The Land Recycling Loan Program is a new program under the Environmental Improvement Fund created by the 1997–99 biennial budget.

**Statutory authority:**

Section 281.60, Stats., as created by 1997 Wis. Act 27.

**Anticipated time commitment:**

The anticipated time commitment is 605 hours. Three hearings are proposed to be held at Milwaukee, Green Bay and Eau Claire.

**Natural Resources****Subject:**

NR Code – Relating to approval to create new administrative rules for the Drinking Water Loan Guarantee Program.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

DNR is directed by the 1997–99 Budget Bill (s. 281.625, Stats.) to promulgate rules to administer the Drinking Water Loan Guarantee Program.

This action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

The Drinking Water Loan Guarantee Program is new to Wisconsin and currently there are no administrative rules.

**Statutory authority:**

S. 281.625, Stats., and 42 USC 300j–12, 42 USC 300f to 300j–26.

**Anticipated time commitment:**

The anticipated time commitment is approximately 265 hours. Three public hearings will be held in March, 1998 at Stevens Point, Madison and Eau Claire.

**Public Instruction****Subject:**

PI Code – Relating to administering the inter–district public school open enrollment program.

**Description of policy issues:**

*Rationale for proposed rule development:*

1997 Wis. Act 27 created an inter–district public school open enrollment program in Wisconsin. The Department is responsible for administering the program, including creating uniform application forms, administering school finance provisions, administering a transportation reimbursement program for low–income parents and collecting data and making reports to the legislature, deciding appeals and conducting outreach to inform parents about the program. Administrative rules are necessary to ensure uniform procedures throughout the state.

*Description of objective(s) of the proposed rule:*

- ✓ Establish uniform forms and procedures for parents to apply for public school open enrollment.
- ✓ Establish forms and procedures for low–income parents to apply for transportation reimbursement.
- ✓ Define school district responsibilities for handling applications, (i.e., procedures for notifying parents, providing information to other school districts, etc.)
- ✓ Define school district responsibilities for data collection and reporting.
- ✓ Establish an appeal procedure.
- ✓ Establish forms and procedures for the collection of data relating to school aid adjustments.
- ✓ Establish a method of calculating the cost of individual courses for part–time open enrollment.
- ✓ Provide clarification of how the open enrollment program interacts with other statutory programs.

*Describe any existing relevant policies to be included in the administrative rule:*

This is a new program. There are no existing policies to be included in the administrative rule.

*Describe any new policies to be included in the proposed rule:*

○ Application deadlines will be defined as the date the application is due in the school district office. Notification deadlines will be defined as the date by which the notification must occur. Postmarks will not apply.

○ The parent's signature on the application form will grant permission for the resident school district to release special education records that may be necessary for the nonresident school district to determine if it offers or has space in the program defined in the student's IEP.

○ Ensure that all information that school districts are permitted to consider in accepting and rejecting applications is included or provided for on the application form. Prohibit school districts from requesting additional information (such as transcripts) prior to notifying the parent of acceptance or rejection in April. Permit school districts to request pupil records of accepted students after April notification, for use in assigning the student to a school or program by May.

○ The base enrollment for resident school districts to determine the number of students they must allow to leave the district will be defined as the membership on the immediately preceding third Friday in September.

○ The per mile reimbursement for transportation reimbursement will be defined as the state turnaround rate.

○ In cases where divorced parents have joint custody, both parents will be required to sign the application.

○ Provide that the general procedure for appeals will be a review of the record, but provide discretion for the DPI to take affidavits, conduct investigations to supplement the review record, and allow written argument when needed.

○ Establish procedures for nonresident school districts to annually notify resident school districts of all students from the resident district enrolled in the nonresident district.

*Describe policy alternatives:*

Individual policy items may have alternatives (for example, providing that an application postmarked by the deadline would be on time). The overall alternative would be to develop forms and allow local school districts to establish individual application procedures. Since, by definition, each parent and each school district will have to deal with at least one other school district, this lack of uniformity could cause significant problems.

**Statutory authority for rule:**

Sections 118.51, 118.52 and 227.11 (2) (a), Stats.

**Estimate the amount of time/staff resources necessary to develop rule:**

The amount of time needed for rule development by Department staff and the amount of other resources necessary is indeterminable. The time needed in creating the rule language, itself, will be minimal; however, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

## **Transportation**

**Subject:**

Ch. Trans 110 – Relating to defining guidelines under which the Department will reduce a lifetime disqualification of a commercial motor vehicle driver to a ten year disqualification.

**Description of policy issues:**

*Description of the objective of the rule:*

This is a proposal to create ch. Trans 110 for the purpose of defining guidelines under which the Department will reduce a lifetime disqualification of a commercial motor vehicle driver to a ten year disqualification. 1989 Wis. Act 105 granted the Department the authority to set guidelines and conditions to allow the reduction of a lifetime disqualification.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

Existing policy has been that individuals disqualified from operation of a commercial motor vehicle for life are intended to be permanently ineligible for a commercial motor vehicle license. The change in law to allow for the reduction to ten years has not been an issue, to this point, as all of those currently disqualified have not yet served a ten year disqualification; however, authority to disqualify was effective in 1988 and, therefore, individuals will be eligible to seek a reduction in disqualification period during the upcoming year. The proposed rule will outline specific criteria to be met, set standards for an acceptable rehabilitation program to be completed, and delineate the process to be used for requesting a reduction to the lifetime disqualification.

**Statutory authority for rule:**

Section 343.315 (2) (d), Stats.

**Estimates of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

It is estimated that state employees will spend 80 hours completing the rule. This includes research, drafting and hearing from all interested parties.

## **Workforce Development**

**Subject:**

Ch. DWD 42 – Relating to the New Hire Reporting System.

**Description of policy issues:**

*Description of the objective of the rule:*

The New Hire Reporting System was created in response to federal requirements. Authority for the System was created as part of the budget bill, but the specifics of how the System would run were not available at the time the budget bill was drafted. As a result, the specifics of how the System will work were to be detailed in an administrative rule. This administrative rule will fulfill the statutory requirement that the Department specify the information employers must provide, the ways in which such information may be reported, and the timetables for reporting.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

The System has been designed and basic procedures have been defined, but there are no existing formal policies relevant to this rule. Because this system was created in response to federal requirements, alternatives are limited.

**Statutory authority for rule:**

Sections 103.005 (1), 103.05 (3) and 227.11 (2), Stats.

**Estimates of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

It is expected that 120 hours or less will be spent on the development of this rule.

## **Workforce Development**

**Subject:**

S. DWD 127.035 and perhaps ch. DWD 126 – Relating to the limited waiver of work search requirement and, perhaps, work registration requirement.

**Description of policy issues:**

*Description of the objective of the rule:*

The objective of this rule, which the Department is considering at the request of the UI Advisory Council, is to provide for a waiver of the work search requirement under certain circumstances for claimants who have been laid off due to a temporary closing of a major employer due to, for example, a disaster or a need to retool/remodel. The work registration requirement will be examined to determine whether a similar change to that rule is necessary. This rule package will also include some clarifications and technical corrections to existing rules.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

Existing policies:

Performing a work search is a condition of eligibility for receiving unemployment insurance (UI). The statute allows the Department to waive those requirements through an administrative rule. Currently, ch. DWD 127 allows the Department to waive a claimant's work search requirement if s/he has been laid off from work but has a reasonable expectation of re-employment within 12 weeks after the week in which s/he files a claim for UI benefits.

In 1996, there was an emergency rule in effect waiving the work search requirement for workers laid off due to a disaster in an employer's plant. This rule was intended to impact workers from the Stella Foods plant in Lena, WI, which burned down in January of that year. The employer rebuilt the plant and recalled workers as quickly as possible during and after the rebuilding. The Stella Foods plant is a major employer in the Lena/Oconto Falls labor market. The Department believed that the number of affected employees and the nature of the labor market in the Lena/Oconto Falls area made it very unlikely that any substantial number of affected workers would be able to obtain suitable alternative work as a result of customary work search activities. The Department promulgated this rule to avoid wasting administrative funds, to avoid hardship for other employers in the area who would have to be repeatedly canvassed by these workers if they have to perform a work search, and to avoid imposing a hardship on other unemployed individuals in the area who are

searching for work in the area, and do not have a similar assurance of being recalled to their former positions.

A similar emergency rule was promulgated a number of years ago when the GM–Janesville plant was shut down for 6 months for remodeling and retooling. At that time, the UI Advisory Council was not interested in the creation of a permanent rule. After reviewing the Stella Foods–related emergency rule, the Council did express interest in the creation of a permanent rule covering similar situations.

New policies:

To provide a permanent rule allowing the waiver of the work search requirement and, if necessary, the work registration requirement for workers who become unemployed under similar circumstances in the future. These circumstances may include such things as disasters and plant remodeling or retooling. It is expected that this rule would be very similar to the two emergency rules already discussed. As a result, the waiver would only be granted if the employer and (if applicable) the union request the waiver, the employees are reasonably assured of recall, and the Department determines that a work search would impose a hardship on area employers and would not be likely to result in suitable employment for a substantial number of affected employees.

Some clarifying and technical changes to existing rules will also be included in this package.

Analysis of alternatives:

The Department was in favor of creating a permanent rule when the GM–Janesville related retooling/remodeling emergency rule was expiring. At that time, the Council was opposed to such a rule, so the Department did not pursue a permanent rule. Because of that

historical backdrop, the Department did not propose a permanent rule while discussing the Stella Foods–related disaster emergency rule; however, various members of the Council expressed interest in the creation of such a permanent rule. The Department could refuse to promulgate such a rule, but this would fly in the face of years of the Department and the Council working together on matters of common interest. Additionally, this is a rule which the Department has favored for quite some time.

The Department and the Council did discuss the possibility of not doing a general rule, but felt that this would lead to the unpopular alternative of the ongoing use of emergency rules to deal with situations like the one currently being experienced by Stella Foods.

**Statutory authority for rule:**

Sections 103.005 (1), 108.04 (2) (b), 108.14 (2)  
and 227.11 (2), Stats.

**Estimates of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

Some of the work which would normally be necessary relating to this rule will not have to be repeated, since there are two emergency rules which may be used as jumping off spots in the development of a more generalized rule. This basic approach has been discussed by the Department and then outlined and approved by the UI Advisory Council. Language must be drafted and reviewed by the Department and the Council, public hearings must be held and may result in some language redrafting, and promulgation packets will have to be prepared. It is estimated that a total of under 60 staff hours will be required to complete this rule package.

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# NOTICE SECTION

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## Notice of Hearing *Dentistry Examining Board*

Notice is hereby given that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b), 227.11 (2), 227.24 (1), 447.02 (1) (e) and 447.04 (1) (b), Stats., and interpreting s. 447.04 (1) (b), Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order adopting emergency rules to repeal and recreate s. DE 2.04 (1) (e), relating to examination requirements for applicants licensed as dentists in other states.

### **Hearing Information**

The public hearing will be held:

<u>Date &amp; Time</u>	<u>Location</u>
January 7, 1998 Wednesday 9:00 a.m.	Room 179A 1400 E. Washington Ave. MADISON, WI

### **Written Comments**

Interested people are invited to present information at the hearing. People appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

Office of Administrative Rules  
Dept. of Regulation & Licensing  
P.O. Box 8935  
Madison, WI 53708

Written comments must be received by **January 12, 1998** to be included in the record of rule-making proceedings.

### **Analysis Prepared by the Dept. of Regulation & Licensing**

*Statutes authorizing promulgation:* ss. 15.08 (5) (b), 227.11 (2), 227.24 (1), 447.02 (1) (e) and 447.04 (1) (b)

*Statute interpreted:* s. 447.04 (1) (b)

In this order, the Dentistry Examining Board repeals and recreates the rule that currently requires an applicant for a Wisconsin license who is licensed as a dentist in another state to have successfully completed a clinical licensing examination containing a periodontal part given by another state or regional testing service. The current rule requires that the clinical examination successfully completed by the out-of-state applicant must be "substantially equivalent to the clinical examination administered by the central regional dental testing service." (CRDTS). Older examinations of some states do not contain a periodontal part and the Board has found such examinations not to be substantially equivalent to the CRDTS examination. Previously, these applicants have been required to take and successfully complete the periodontal part of the CRDTS examination to become licensed in this state.

This rule provides two additional means by which out-of-state dentists may meet the periodontal requirement. The first grants a regular dental license to an applicant who has taken continuing education programs or courses in periodontal procedures within the last 12 months. The second permits an applicant who has not met this prior education requirement to be granted a temporary license to practice dentistry in this state. The applicant then has 6 months to obtain the periodontal education and receive a regular license. Under both alternatives, the applicant is not required to successfully complete a clinical examination on periodontal procedures.

### **Text of Rule**

**SECTION 1.** DE 2.04 (1) (e) is repealed and recreated to read:  
DE 2.04 (1) (e) The applicant has met one of the following conditions:



1. The applicant has successfully completed a clinical licensing examination on a human subject which, in the board's judgment, is substantially equivalent to the clinical examination administered by the central regional dental testing service.
2. The applicant has successfully completed a clinical licensing examination substantially equivalent to that of the central regional dental testing service except for the periodontal part and the applicant has, within 12 months prior to the date of the application, completed educational programs or courses in periodontics satisfactory to the board.
3. A temporary license may be granted to an applicant who meets all of the other requirements for licensure by endorsement, but whose clinical licensing examination is not substantially equivalent to that of the central regional dental testing service because it did not contain a periodontal part. The temporary license shall be valid for a period designated by the board, not to exceed 6 months, may only be granted once and may not be renewed. A regular license to practice dentistry shall be granted to the applicant at the time the applicant submits sufficient documentation that he or she has completed educational programs or courses in periodontics satisfactory to the board, and only if such documentation is submitted within the time period the temporary license is valid.
4. The applicant has successfully completed a board specialty certification examination of an American dental association accredited specialty within the previous 10 years.

### ***Finding of Emergency***

These rules are promulgated under s. 227.24 (1) (a), Stats. The Governor vetoed a provision in the budget bill which would have permitted dentists licensed in other states to obtain a license in Wisconsin, despite their not having passed a clinical licensing examination with a periodontal part. In doing so, the Governor requested the Board adopt an emergency rule to permit these dentists to obtain licenses in Wisconsin under other reasonable and appropriate methods. The concern for the public health, safety and welfare is that this state's citizens are currently being deprived of necessary dental services from qualified dentists who, themselves, are experiencing substantial and perhaps unnecessary hardship in becoming licensed in Wisconsin. These rules are put into effect prior to the time they would be effective under routine rule-making procedures to assure that the public is not deprived of necessary dental services from qualified dental professionals and that adequate safeguards for protecting the health and safety of dental patients are part of the licensing process.

### ***Fiscal Estimate***

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### ***Copies of Rule and Contact Person***

Copies of this proposed rule are available without cost upon request to:

Pamela Haack, (608) 266-0495  
Office of Administrative Rules  
Dept. of Regulation & Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

## **Notice of Hearing**

### ***Dentistry Examining Board***

Notice is hereby given that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b), 227.11 (2), 447.02 (1) (e) and 447.04 (1) (b), Stats., and interpreting s. 447.04 (1) (b), Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal and recreate s. DE 2.04 (1) (e), relating to examination requirements for applicants licensed as dentists in other states.

### ***Hearing Information***

The public hearing will be held:

<b><u>Date &amp; Time</u></b>	<b><u>Location</u></b>
January 7, 1998 Wednesday 9:00 a.m.	Room 179A 1400 E. Washington Ave. MADISON, WI

## **Written Comments**

Interested people are invited to present information at the hearing. People appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

Office of Administrative Rules  
Dept. of Regulation & Licensing  
P.O. Box 8935  
Madison, WI 53708

Written comments must be received by **January 12, 1998** to be included in the record of rule-making proceedings.

## **Analysis Prepared by the Dept. of Regulation & Licensing**

*Statutes authorizing promulgation:* ss. 15.08 (5) (b), 227.11 (2), 447.02 (1) (e) and 447.04 (1) (b)

*Statute interpreted:* s. 447.04 (1) (b)

This proposed order of the Dentistry Examining Board would make permanent the emergency rule published on **October 18, 1997**, that repealed and recreated the rule requiring an applicant for a Wisconsin license who is licensed as a dentist in another state to have successfully completed a clinical licensing examination containing a periodontal part given by another state or regional testing service. Prior to the emergency rule of October 18, 1997, the rule required that the clinical examination successfully completed by an out-of-state applicant be "substantially equivalent to the clinical examination administered by the central regional dental testing service." (CRDTS). Older examinations of some states do not contain a periodontal part and the Board has found such examinations not to be substantially equivalent to the CRDTS examination. Previously, these applicants have been required to take and successfully complete the periodontal part of the CRDTS examination to become licensed in this state.

The emergency rule, and this proposed order, provides two additional means by which out-of-state dentists may meet the periodontal requirement. The first grants a regular dental license to an applicant who has taken continuing education programs or courses in periodontal procedures within the last 12 months. The second permits an applicant who has not met this prior education requirement to be granted a temporary license to practice dentistry in this state. The applicant then has 6 months to obtain the periodontal education and receive a regular license. Under both alternatives, the applicant is not required to successfully complete a clinical examination on periodontal procedures.

## **Text of Rule**

**SECTION 1.** DE 2.04 (1) (e) is repealed and recreated to read:

DE 2.04 (1) (e) The applicant has met one of the following conditions:

1. The applicant has successfully completed a clinical licensing examination on a human subject which, in the board's judgment, is substantially equivalent to the clinical examination administered by the central regional dental testing service.
2. The applicant has successfully completed a clinical licensing examination substantially equivalent to that of the central regional dental testing service except for the periodontal part and the applicant has, within 12 months prior to the date of the application, completed educational programs or courses in periodontics satisfactory to the board.
3. A temporary license may be granted to an applicant who meets all of the other requirements for licensure by endorsement, but whose clinical licensing examination is not substantially equivalent to that of the central regional dental testing service because it did not contain a periodontal part. The temporary license shall be valid for a period designated by the board, not to exceed 6 months, may only be granted once and may not be renewed. A regular license to practice dentistry shall be granted to the applicant at the time the applicant submits sufficient documentation that he or she has completed educational programs or courses in periodontics satisfactory to the board, and only if such documentation is submitted within the time period the temporary license is valid.
4. The applicant has successfully completed a board specialty certification examination of an American dental association accredited specialty within the previous 10 years.

## **Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

## **Initial Regulatory Flexibility Analysis**

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

**Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to:

Pamela Haack, (608) 266-0495  
Office of Administrative Rules  
Dept. of Regulation & Licensing  
1400 East Washington Ave., Room 171  
P.O. Box 8935  
Madison, WI 53708

**Notice of Hearing**  
*Insurance*

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing pursuant to s. 227.24 (4), Stats., regarding an emergency rule adopted and published November 20, 1997 affecting s. Ins 18.07 (5) (b), Wis. Adm. Code, relating to an emergency rule rate change for the Health Insurance Risk-Sharing Plan (HIRSP) effective January 1, 1998 and an emergency rule amending that rule to correct errors in the rate table.

Note that this hearing is for the purpose of satisfying s. 227.24 (4), Stats., which requires a public hearing be held within 45 days of the promulgation of an emergency rule. This hearing concerns both the emergency rule and the amendment which corrects 4 errors in the published rate table.

**Hearing Information**

The public hearing will be held:

Date & Time	Location
December 30, 1997 Tuesday 10:00 a.m.	Room 23, OCI 121 East Wilson St. MADISON, WI

**Written Comments**

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to:

Stephen Mueller, OCI  
P.O. Box 7873  
Madison, WI 53707

**Summary of Proposed Rule & Fiscal Estimate**

For a summary of the rule see the analysis. There will be no state or local government fiscal effect.

**Analysis Prepared by the Office of the Commissioner of Insurance**

*Statutory authority:* ss. 227.24, 601.41 (3), 619.11, 619.14 (5) (a) and (e) and 619.15 (5)

*Statutes interpreted:* ss. 619.14 (5) (a), 619.165 (1) and 619.17 (1) and (2)

January 1, 1998 Premium Adjustment Correction

The Commissioner of Insurance, based on the recommendation of the Health Insurance Risk-Sharing Plan (“HIRSP”) board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles. An emergency rule, already promulgated and published, adjusts the non-subsidized premium rates effective January 1, 1998. This emergency amendment corrects 4 errors in the published rate table.

**Initial Regulatory Flexibility Analysis**

This rule does not impose any additional requirements on small businesses.

**Contact Person**

A copy of the full text of the proposed rule and fiscal estimate may be obtained from:

Meg Gunderson, Services Section  
Telephone (608) 266–0110  
Office of the Commissioner of Insurance  
121 East Wilson St.  
P.O. Box 7873  
Madison, WI 53707–7873

**Notice of Hearing**  
*Veterans Affairs*

Notice is hereby given that pursuant to ss. 45.35 (3) and 45.356 (7), Stats., and interpreting s. 45.356, Stats., the Department of Veterans Affairs will hold a public hearing at the time and place indicated below.

**Hearing Information**

The public hearing will be held:

Date & Time	Location
January 9, 1998 Friday 9:30 a.m.	8th Floor Board Room 30 West Mifflin St. MADISON, WI

**Analysis and Summary Prepared By The Dept. of Veterans Affairs**

By repealing and recreating ch. VA 12, Wis. Adm. Code, the Department establishes the underwriting and other criteria necessary for the administration of the personal loan program. That program was established through the enactment of 1997 Wis. Act 27.

The proposed rules will provide definitions for key terms and identify the information which must be included on the application form. The proposed rules will also identify permissible loan conditions, including determination of interest rates, required security and circumstances under which a veteran may receive a deferment of payments on an educational loan.

**Initial Regulatory Flexibility Analysis**

This rule is not expected to have an adverse impact on small businesses.

**Fiscal Estimate**

A copy of the proposed rules and the full fiscal estimate may be obtained by writing to:

John Rosinski  
Wis. Dept. of Veterans Affairs  
P.O. Box 7843  
Madison WI 53707–7843

**Contact Person**

John Rosinski (608) 266–7916

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***NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF EACH HOUSE OF THE LEGISLATURE,  
UNDER S. 227.19, STATS.***

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*Please check the Bulletin of Proceedings for further information on a particular rule.*

**Commerce ([CR 97-115](#)):**

Ch. Comm 5 – Relating to credentials.

**Insurance ([CR 97-99](#)):**

SS. Ins 2.14 and 2.16 – Relating to life insurance solicitations.

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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.*

**Corrections (CR 97-95):**

An order creating ch. DOC 304, relating to the inmate secure work program.  
Effective 02-01-98.

**Workforce Development (CR 97-23):**

An order renumbering subch. VII of ch. HSS 55 and creating s. DWD 56.08, relating to the administration of child care funds and required parent copayments.  
Part effective 01-01-98.

**Workforce Development (CR 97-112):**

An order amending s. DWD 80.02, relating to reports from insured employers, self-insured employers and insurance carriers.  
Effective 01-01-98.

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# *PUBLIC NOTICE*

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## **Public Notice**

### *Dept. of Agriculture, Trade & Consumer Protection*

### **Notice of Dollar Amount Adjustments for Repair Charges Subject to Mechanic's Liens**

Under s. 779.41 (1), Stats., mechanics or repair businesses who transport, repair or perform any work on personal property at the request of the owner have a statutory lien on the property for the just and reasonable charges associated with the work, and may retain possession of the property until the charges are paid.

Generally, a mechanic's lien under s. 779.41, Stats., has a priority over any previously recorded security interest in the personal property but only for appropriate charges below specified dollar amounts.

Under s. 779.41 (1m), Stats., the Department of Agriculture, Trade and Consumer Protection is required to annually publish adjusted dollar amounts for charges on repairs to personal property subject to mechanic's liens. The adjustments are based on the annual change in the consumer price index, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

The Department has determined that current dollar amounts specified under s. 779.41(1) (intro), (1) (a), (1) (b), and (1) (c), Stats., shall be increased by 3%, according to the prior year annual change in the consumer price index. Thus, dollar amounts for charges under the mechanic's lien law are adjusted as follows:

Under s. 779.41 (1) (intro), mechanic's liens generally, \$1,545.

Under s. 779.41 (1) (a), mechanic's liens on a trailer or semitrailer designed for use with a road tractor, \$4,635.

Under s. 779.41 (1) (b), mechanic's liens on road machinery, including mobile cranes, trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment, \$7,725.

Under s. 779.41 (1) (c) 1. to 4., mechanic's liens on vehicles:

1. More than 10,000 and less than 20,000 pounds, \$3,090.
2. 20,000 pounds or more but less than 40,000 pounds, \$6,100.
3. 40,000 pounds or more, but less than 60,000 pounds, \$9,270.
4. 60,000 pounds or more, \$12,360.

These revised dollar amounts under the mechanic's lien law shall apply to work commenced on or after January 1, 1998 for which a lien is claimed. These revised dollar amounts shall remain in effect until the first day of the first month following publication of new adjusted dollar amounts in the *Wisconsin Administrative Register*.

## Contact Information

Merry Fran Tryon, Director  
Telephone: (608) 224-4921  
Consumer Protection Bureau  
Dept. of Agriculture, Trade and Consumer Protection  
2811 Agriculture Dr.  
P.O. Box 8911  
Madison, WI 53708-8911



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